



ANNO UNDECIMO

GEORGII V REGIS.

A.D. 1920.

No. 1426.

An Act to confer certain Powers on the Government of South Australia in regard to the Marketing of the Wheat Harvest of the Season 1920-1921, and for other purposes.

[Assented to, November 11th, 1920.]

WHEREAS owing to the continuance of the great scarcity of the means of transportation which resulted from the existence of a state of war the satisfactory marketing of the Australian wheat harvest of the season 1920-1921 is endangered: And whereas certain Ministers of the Crown of the States of New South Wales, Victoria, South Australia, and Western Australia have in a conference held for the purpose outlined a proposed scheme for concerted action by the Governments of the said States, in co-operation with the Government of the Commonwealth of Australia if it agrees to co-operate with the said Governments, or, failing such co-operation, then independently of the Government of the Commonwealth, for utilising on a fair basis the means of transportation available and for the marketing of the said harvest at prices based on those obtainable on the overseas wheat market, with certain deductions: And whereas it is expedient to empower the Government of South Australia to join with the said Governments in settling the terms of the said proposed scheme, or any modification thereof agreed to by the said Governments, or in formulating any other scheme for concerted action for the purposes aforesaid, or any modification of any such other scheme, and to do all such acts, matters, and things as on the part of the Government of South Australia are necessary or expedient for the due carrying out of the said proposed scheme or of any such modification thereof, or of such other scheme or any such modification thereof: And whereas, during the year ending on the thirty-first

Preamble.

Wheat Marketing and Transportation Act.—1920.

thirty-first day of December, nineteen hundred and twenty, the Minister in exercise of his powers under the Wheat Harvest Acts, 1915 to 1919, has sold to various millers wheat for gristing into flour for Australian consumption during the said year, and may, during the remainder of the said year, sell to millers further wheat for the like purpose: And whereas it is desirable that flour gristed from such wheat, and whether remaining in the possession of millers or disposed of by them, shall not be accumulated for the purposes of sale after the expiry of the intended consumption period.

Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.**PART I.****PRELIMINARY.****Short title.**

1. This Act may be cited as the "Wheat Marketing and Transportation Act, 1920."

Commencement of Act.

2. (1) Except as otherwise expressly provided, this Act shall come into force on a day to be fixed by proclamation.

(2) The Governor may not make such proclamation unless he is satisfied that the Government of each of the States is prepared to join in the proposed scheme or any modification thereof as aforesaid, or to join in formulating any other scheme or any modification of such other scheme as aforesaid.

Arrangement of Act.

3. This Act is divided into Parts, as follows:—

PART I.—Preliminary.

PART II.—General.

PART III.—Special Provisions with respect to Flour and Stocks thereof.

PART IV.—Supplementary.

Interpretation.

4. In this Act, unless inconsistent with the context or subject-matter—

"Authorised contractor" means any person authorised by the Minister to take delivery of any wheat on a purchase thereof by the Minister in exercise of his powers under this Act, and also any agent, employee, or servant of an authorised contractor empowered by such contractor to act as his agent in taking such delivery, and any agent, employee, or servant of such agent:

"Blended wheat" means wheat of the harvest of the season 1920-1921 with which has been blended or mixed any old wheat:

"Deliver under the wheat marketing scheme" means deliver or tender, or cause to be delivered or tendered, to an authorised

Wheat Marketing and Transportation Act.—1920.

PART I.

authorised contractor, or any person authorised in that behalf by the Minister, for acceptance on account of the Minister, any wheat intended to be sold to the Minister pursuant to the authority conferred on the Minister by this Act to buy or arrange for the purchase of wheat :

“Minister” means the Minister controlling the South Australian Wheat Harvest Scheme :

“Old wheat” means wheat harvested before the first day of September, nineteen hundred and twenty :

“Sale” includes barter and exchange, and also any transaction involving a transfer of his right of property in any wheat by one person to another ; and “sell” has a corresponding meaning :

“States” means the States of New South Wales, Victoria, and Western Australia, and where not inconsistent with the context includes the State of South Australia :

“Surplus wheat” means wheat of the harvest of the season 1919-1920 which has not been bought by the Minister under the authority of the Wheat Harvest Acts, 1915 to 1919, or this Act :

“Wheat marketing scheme” means any scheme or any modification thereof referred to in the preamble to this Act and agreed to by the Governments of the States.

5. Save as otherwise expressly provided, this Act shall apply to wheat harvested during the season 1920-1921, surplus wheat and old wheat, and not otherwise.

Application of Act.

PART II.

GENERAL.

PART II.

6. The Premier of South Australia may join either with the Prime Minister of the Commonwealth and the Premiers of the States or with the Premiers of the States in settling the terms of the proposed scheme for concerted action in the marketing of the Australian wheat harvest of the season 1920-1921 outlined at the conference hereinbefore mentioned or any modification thereof, or in formulating any scheme or schemes for concerted action for the like purpose or any modification of any such scheme or schemes, and may, on behalf of the Government of South Australia, agree to any scheme or modification as aforesaid and to do any acts, matters, or things necessary or expedient to carry the same into operation.

Power to join in proposed scheme for marketing Australian wheat harvest, 1920-1921.

7. For the purposes of the satisfactory marketing of the wheat harvest of the season 1920-1921 and for the purposes of this Act—

Powers of Minister.
Cf. 1229, 1915, s. 5 ;
1368, 1919, s. 11.

(a) the Minister, whether in conjunction with Ministers of the Crown representing the Commonwealth and the States
or

PART II.

Wheat Marketing and Transportation Act.—1920.

or the States or otherwise, may buy or sell or arrange for the purchase or sale of wheat, and do all acts, matters, and things necessary or expedient in that behalf accordingly; and in particular, but without limiting the generality of the foregoing powers—

I. may appoint or employ such agents, officers, servants, and other persons as are necessary; and

II. may arrange with any bank or banks or with the Government of the Commonwealth for financial accommodation; and

Government
guarantee to refund
certain amounts if
paid by the
Commonwealth.

(b) the Treasurer of South Australia, on behalf of the Government of South Australia, may arrange with the Government of the Commonwealth for guaranteeing to the Commonwealth a refund of any shortage for which the Government of South Australia is liable in respect of any operations pursuant to this Act which has been made good by the Commonwealth, or for the repayment of any moneys provided by the Government of the Commonwealth pursuant to sub-paragraph II. of paragraph (a) of this subsection for which the Government of South Australia is liable; and any moneys payable by the Government of South Australia under such arrangement shall be provided out of moneys to be appropriated by Parliament for the purpose.

Prohibition of sales,
etc., of wheat except
to Minister.
Cf. 1291, 1917, s. 5.

8. (1) No person in South Australia shall, except as prescribed, sell wheat to or buy wheat from any other person in South Australia for delivery in South Australia before the first day of December, nineteen hundred and twenty-one, except to or from the Minister or persons authorised by him.

(2) Any person guilty of a contravention of the provisions of this section shall be liable to a penalty of not more than Five Hundred Pounds.

Exemptions.

(3) The Minister may exempt (either generally or in any particular case) from the operation of this section—

(a) sales or purchases of seed wheat by growers of wheat to or from growers of wheat for *bona fide* use by the purchasers in their farming operations;

(b) sales by wheat-growers or purchasers of wheat (of a quality below that fit for gristing into flour for Australian consumption) from the growers thereof for *bona fide* use by the purchasers as food for their poultry and stock;

(c) sales or purchases of wheat grown by any wheatgrower in areas of limited production of wheat specified by the Minister; and

(d) such other sales and purchases as are prescribed.

(4) The

Wheat Marketing and Transportation Act.—1920.

PART II.

(4) The Minister may at any time, by notification published in the *Government Gazette*, revoke any such exemption.

9. Any person who, without the previous written authority of the Minister, grists any wheat (whether into flour or other product of wheat) for any other person after the commencement of this Act and before the first day of December, nineteen hundred and twenty-one, shall be liable to a penalty of not more than Five Hundred Pounds, and any contract entered into (whether before or after the commencement of this Act) in contravention of, or inconsistent with the provisions of, this section shall be void and of no effect.

Wheat not to be gristed unless with previous authority of Minister.

Cf. Victoria, No. 2846, s. 5; No. 2969, s. 3.

10. (1) Every contract which is made in South Australia, whether before or after the commencement of this Act, so far as it relates to the sale of South Australian wheat or flour for delivery in South Australia on or after the thirty-first day of October, nineteen hundred and twenty, up to but not later than the first day of December, nineteen hundred and twenty-one, shall, when specified by the Minister in a notification published in the *Government Gazette*, be and is hereby declared to be and to have been void and of no effect so far as such contract has not been completed by delivery at the date of such notification: Provided that, for the purposes of this section, any such contract shall be deemed to be severable.

Contracts for sale of wheat and flour.

Cf. Victoria, No. 2812, s. 7.

(2) Any transaction or contract with respect to any wheat or flour which is the subject-matter of any contract or part of a contract which is by this section declared to be void shall also be void and of no effect, and any money paid in respect of any contract hereby made void or of any such transaction shall, to the extent to which the said contract or transaction is made void, be repaid.

(3) Nothing in this or in section 8 or 9 of this Act shall apply to wheat or flour the subject of an interstate contract.

11. Notwithstanding anything in the South Australian Railways Commissioners Act, 1887, or the law relating to common carriers, the South Australian Railways Commissioner may, on the request of the Minister, refuse to carry any wheat or flour or other product of gristed wheat (not the subject of an interstate contract) owned by any specified person in South Australia from any place in South Australia to any person in any other place in South Australia, or, except as prescribed, to deliver any such wheat, flour, or product.

Power of South Australian Railways Commissioner to refuse to carry certain wheat, etc.

1291, 1917, s. 6 (1)

12. (1) No action for damages for conversion or for detention of any wheat shall be brought against the Minister or any person acting under his authority by any person claiming to be entitled to any bill of sale, charge, lien, or other encumbrance whatsoever of or upon or over such wheat, or any crop from which such wheat was harvested, or claiming to be the true owner of such wheat: Provided that any person who, but for this subsection, might have brought any such action may adopt the delivery of such wheat to the Minister as a delivery thereof by him to the Minister, and may claim accordingly for an account of the purchase-money thereof.

Remedy against Minister confined to claim for an account of the purchase-money of the wheat.

Cf. Victoria, No. 2812, s. 8; No. 2846, s. 7; No. 2969, s. 3.

(2) Notwithstanding

PART II.

Wheat Marketing and Transportation Act.—1920.

Notice of lien, &c.,
to be given to
Minister.

(2) Notwithstanding anything in any Act, a person claiming to be entitled to any such bill of sale, charge, lien, or other encumbrance, or claiming to be the true owner of such wheat, shall not be entitled to claim as aforesaid for an account of the purchase-money of such wheat or any part of such purchase-money unless he has given notice in writing, in the form and containing the particulars prescribed, to the Minister of such bill of sale, charge, lien, or other encumbrance or claim of ownership, and then only for such portion of such purchase-money as has not been paid to other persons by the Minister or any person acting under his authority at the time of the receipt by the Minister of such notice.

Duty of vendor of
wheat to give notice
of encumbrances,
etc., on delivery
thereof.

Cf. Victoria, No.
2846, s. 8.

13. (1) Every vendor of wheat which is subject to any bill of sale, charge, lien, or encumbrance referred to in section 12 of this Act, or in respect of which, or of the crop from which the same was harvested, he has entered into any contract in derogation of his title to sell such wheat as the absolute owner thereof (and whether such bill of sale, charge, lien, or encumbrance or contract was made before or after the commencement of this Act) shall, when delivering or causing to be delivered such wheat under the wheat marketing scheme, give to the person receiving such wheat on behalf of the Minister a notice in writing in the prescribed form of every such bill of sale, charge, lien, or encumbrance or contract.

(2) A notice given in respect of a delivery made to any person receiving wheat on behalf of the Minister at one railway station or place of delivery shall not be deemed to be a compliance with this section in respect of a delivery made to any other person receiving wheat on behalf of the Minister at the same or any other railway station or place of delivery.

(3) Any person wilfully guilty of a contravention of or failure to comply with any of the provisions of this section shall be liable to a penalty of not more than One Hundred Pounds.

Indemnity to
Minister for pay-
ments in good faith,
etc.

Cf. Victoria, No.
2846, s. 9.

14. Where the Minister in good faith and without negligence has paid—

(a) to a vendor delivering or causing to be delivered any wheat for purchase pursuant to this Act to the Minister, or any person acting under the authority of the Minister ; or

(b) to any person entitled or claiming to be entitled through such vendor ; or

(c) on the order of such vendor or last-mentioned person—

the purchase-money of any such wheat or any part of such purchase-money, the Minister shall not be answerable to a person claiming to be entitled in respect of the wheat for the purchase-money of the wheat or any part thereof, or for damages, or in any action, claim, or demand whatsoever.

15. (1) Where,

Wheat Marketing and Transportation Act.—1920.

PART II.

15. (1) Where, in connection with any transfer of a certificate and the acceptance and allowance by the Minister of such transfer, with resulting cancellation of the transferred certificate and issue to the transferee of any new certificate, the Minister has acted in good faith and without negligence, he shall not incur any liability to—

Minister not liable for loss through allowing transfer of certificate of balance of purchase-money.
Cf. Victoria, No. 2969, s. 4.

- (a) the true owner of any cancelled certificate ; or
- (b) any such transferee ; or
- (c) any parties claiming through, under, or in trust for any of them—

for any loss, damage, or prejudice to such true owner or transferee or parties accrued or accruing by reason of action on the part of the Minister in having so accepted and allowed a transfer and cancelled the relative certificate and issued any such new certificate.

(2) If, prior to receiving notice of claim to any certificate or to the chose-in-action or any part thereof the subject-matter of a certificate, the Minister has in good faith and without negligence adjusted and settled with the person named in such certificate for the money payable thereunder, the Minister shall not incur any liability to the true owner of such chose-in-action or any part thereof, or to any party claiming through, under, or in trust for him : Provided that the Minister shall not be entitled to the protection of this subsection in respect of any moneys remaining in his hands at the time of receipt by him of notice of such claim, or thereafter coming to his hands in respect of a chose-in-action the subject-matter of such a claim.

Non-liability of Minister where settlement in good faith, &c., with person named in certificate

(3) This section shall not in any way prejudice or affect any rights *inter se* of any parties claiming adversely to one another to be entitled, whether at law or in equity, to the chose-in-action the subject-matter or part of the subject-matter of any certificate.

Rights of parties *inter se* not affected.

(4) The Minister may plead this section in absolute bar of any proceeding (whether at law or in equity) by any owner, transferee, or party aforesaid to enforce any claim against the Minister founded on such owner's or transferee's or party's claim to be the true owner of or in any way entitled to such chose-in-action or any part thereof.

Pleading in action, etc., against Minister.

(5) In this section, unless inconsistent with the context or subject-matter—

Interpretation.

“ Certificate ”—

- (a) means any certificate issued by or under the authority of the Minister certifying in effect that the party named therein is entitled to an account of any balance of purchase money in respect of any wheat purchased under the powers conferred on the Minister by this Act, and containing a statement that it is issued under this Act ; and
- (b) with respect to any reference to the transfer or assignment of a certificate, includes chose-in-action the subject-matter of a certificate ; and
- (c) includes

PART II.

Wheat Marketing and Transportation Act.—1920.

(c) includes new certificate issued on the cancellation of any transferred certificate ;

“ New certificate ” means a certificate issued on any cancelled certificate on the transfer thereof :

“ Transfer ” means any instrument in writing made or purporting to be made between the transferor of a certificate named therein and a purchaser from such transferor for valuable consideration, and being or purporting to be an absolute transfer of such certificate (but not a transfer by way of security), and appearing to be regular on its face, and to be duly signed by the transferor and indorsed on the relative certificate, or having the latter attached thereto ; and the verb “ transfer ” has a corresponding meaning.

As to delivery of old or blended wheat.
Cf. *ibid.*, s. 5.

16. (1) Save as provided in this section, no person shall deliver under the wheat marketing scheme any old wheat or blended wheat or any wheat of the season 1921-1922.

(2) The owner of old wheat or blended wheat who is the grower thereof, or has become the owner thereof as rent or return in kind under any share-farming agreement, may deliver under the wheat marketing scheme any such wheat in accordance with the following provisions, but not otherwise :—

I. Delivery as aforesaid of such wheat may be made only to an authorized contractor who is also a flour-miller ;

Brands.

II. Every bag of such wheat shall be clearly branded on both sides—

(a) in the case of old wheat—with a brand being a circle not less than two inches and not more than four inches in diameter ; and

(b) in the case of blended wheat—with a brand being two circles as aforesaid in contact or with no greater space between them than two inches ; and

Notice to contractor as kind of wheat, etc.

III. When tendering such wheat to such an authorized contractor the person tendering the same shall give notice in writing to such contractor that he tenders the same as old wheat, or (as the case may be) as blended wheat, according as the bags are branded, and shall specify the number of bags of each brand tendered and the name of the person for whose account the tender is made :

Power to refuse to take delivery of weevil-infested wheat.

Provided that, if such contractor is of opinion that such wheat or any proportion thereof is affected with weevil, he may refuse to accept delivery of the same.

Delivery by employee, &c., in good faith.

(3) An employee of another person, or a carrier, teamster, or other person contracting with another person (whether for reward or not) to deliver under the wheat marketing scheme any wheat

as

Wheat Marketing and Transportation Act.—1920.

PART II.

as wheat of the season 1920-1921, who, in good faith and in compliance with the instructions of such last-mentioned person, delivers under the wheat marketing scheme old wheat or blended wheat as wheat of the season 1920-1921, shall not be deemed guilty of a contravention of this section.

(4) Every person who, in contravention of this section, and whether by himself or by any other person, delivers on his own account or on account of any other person any wheat under the wheat marketing scheme, shall be liable— Penalties.

- (a) in the case of any delivery of old wheat—to a penalty of not more than One Hundred Pounds ;
- (b) in the case of any delivery of blended wheat—to a penalty of not more than One Hundred Pounds, and also to imprisonment for a term of not more than two years ; and
- (c) in the case of any delivery of wheat of the season 1921-1922—to a penalty of not more than One Hundred Pounds.

17. All wheat delivered under the wheat marketing scheme before the first day of December, nineteen hundred and twenty-one shall, if the bags containing the same are not branded as provided in this Act, be deemed to have been delivered or tendered for delivery as wheat of the season 1920-1921.

Unbranded wheat deemed to be delivered, &c., as wheat of season 1920-1921.

Cf. Victoria, No. 2969, s. 6 ; No. 3031, s. 3.

18. The tendering of wheat by a vendor (whether by himself or by any other person authorised by him) to an authorised contractor, or any other person authorised in that behalf by the Minister, for acceptance of delivery by him shall be *prima facie* evidence of an intention to sell the tendered wheat to the Minister, notwithstanding that neither the name of the purchaser nor any of the terms of sale are stated or agreed to.

Tender to be evidence of intention to sell.

Cf. Victoria, No. 2969, s. 7.

PART III.

PART III.

SPECIAL PROVISIONS WITH RESPECT TO FLOUR AND STOCKS THEREOF.

19. This Part, and the provisions of section 4 and of Part IV., so far as necessary for carrying this Part into full effect, shall apply to wheat already under the operation of the Wheat Harvest Acts, 1915 to 1919.

Application of this Part.

20. (1) In this Part, unless inconsistent with the context or subject-matter— Interpretation.

“ Bailee ” means any person holding flour in any quantity for any other person on any account whatever :

“ Flour

PART III.

Wheat Marketing and Transportation Act.—1920.

“Flour stock” and “stock”, in relation to flour, means flour in quantity exceeding one-half ton in weight owned in one ownership, whether such ownership is of one or more persons, and whether the flour is all in one place or partly in two or more places :

“Increase” means that sum of money by which the wheat equivalent of any flour stock at the price of wheat sold by the Minister to be used for gristing into flour for Australian consumption which may be fixed pursuant to this Act under the wheat marketing scheme and comes into operation on the return day exceeds the price or value of such wheat equivalent at the price of wheat sold by the Minister to be used for gristing into flour for Australian consumption for the time being fixed under the Wheat Harvest Acts, 1915 to 1919, or the said scheme (as the case may be) and in operation on the day preceding such return day :

“Owner” means every person having any ownership in any flour stock :

“Ownership” means, in relation to any flour stock, that interest in the flour forming the same which—

(a) is vested in one or more persons ; and

(b) in respect of which the individual or collective act of him or them could vest in a purchaser from him or them the right of property in, and the right to possession of, such flour :

“Return day” means the day (including every part thereof) which the Minister declares under this Part to be a return day :

“Ton” means short ton of two thousand pounds avoirdupois weight :

“Wheat equivalent” means the quantity of wheat from which any flour stock has been gristed, calculated on the basis that forty-eight bushels of wheat is the wheat equivalent of one ton of flour.

Power to declare
return day.

(2) When the Minister, pursuant to the wheat marketing scheme or this Act, has fixed or varied the price of wheat for gristing into flour for Australian consumption the Minister may, after any such fixing or variation, declare by notice published in the *Government Gazette*, any day (including every part thereof) to be a “return day” within the meaning of this Part.

Flour stock to be
charged with pay-
ment of increase.

21. (1) Except as hereinafter provided, every owner of any flour stock held in South Australia on the return day shall primarily, and every bailee of any such flour stock shall secondarily, be liable to pay the amount of the increase in respect of such stocks to the Minister. The amount of such increase (together with interest,

*Wheat Marketing and Transportation Act.—1920.***PART III.**

interest, if any, thereon as hereinafter provided) shall, until paid, be and remain a first charge upon such flour stock and any interest therein, in priority to any other charge or encumbrance whatsoever.

(2) Every person who on the return day is the owner of any flour stock or the bailee of any flour stock or any flour shall, on or before the tenth following day, make to and lodge with the Minister a just and true return in the prescribed form of such flour stock and flour as on the return day.

(3) The Minister may, by notice in writing posted to any person, require him to make return in the prescribed form, within twelve days after the posting of the notice, of any flour in which he may have an interest of ownership, or of which he may be the bailee, and such person shall make return accordingly.

(4) Unless the time for so doing is extended by the Minister on application in that behalf, every owner of any flour stock primarily, and every bailee of any such flour stock secondarily, shall pay to the Minister in respect thereof the amount of the increase (together with interest thereon as hereinafter provided) in manner following :—

- I. The said amount shall become due and payable by the owner on the tenth day following the return day, and if not paid on or before the twentieth day following the return day shall, until paid, bear interest at the rate of Six Pounds Ten Shillings per centum per annum accruing from day to day :
- II. The said amount shall become due and payable by the bailee on the twenty-first day following the return day, and shall, until paid, bear interest at the rate of Six Pounds Ten Shillings per centum per annum accruing from day to day from the day when the increase became payable by the owner :
- III. If any owner of any flour stock produces to the bailee of any flour forming, or notified to the bailee by the Minister as forming, a flour stock or any part thereof on or before the twenty-first day following the return day the receipt from the Minister for payment of the increase in respect of any such stock, such stock shall cease to be subject to the lien hereinafter provided for, and the bailee shall be discharged in respect of such stock from the obligation of payment to the Minister of the increase.

(5) The Minister, if satisfied that any flour in the possession of a bailee on the return day forms part of a flour stock, may give to such bailee notice in writing accordingly, whereupon for all the purposes of this Part, but so far only as regards the bailee—

Where flour in hands of bailee is part of a flour stock.

(a) such flour shall be a flour stock ; and

(b) the day of the giving of notice to the bailee by the Minister shall be the return day.

22. Any

PART III.

Wheat Marketing and Transportation Act.—1920.

Obligation of
bailee to deliver,
flour stock to be
subject to produc-
tion of receipt from
Minister to bailor.

22. Any person who is on the return day the bailee of any flour stock shall not be under any obligation to part with the possession of the same in accordance with the direction of the bailor thereof, or of any person claiming to be entitled thereto or to any interest therein, unless the receipt from the Minister to such bailor or person for the payment to the Minister of the amount of the increase in respect of such stock is produced to such bailee.

Lien of bailee for
amount of increase
paid by him to
Minister.

23. (1) Every person being on the return day the bailee of any flour stock shall have, by virtue of this section, a lien on such stock as against any and every person claiming to own such stock, or to have any interest therein or power of disposition thereover—

(a) as cover for the secondary obligation while outstanding of the bailee to pay to the Minister the increase in respect of such stock ; and

(b) as and from the time of actual payment to the Minister of the amount of the increase (including interest thereon), for the amount of such payment, together with interest on such amount at the rate of Six Pounds Ten Shillings per centum per annum accruing from day to day.

(2) Upon production to the bailee of the receipt from the Minister for the payment of the increase in respect of the stock the provisions of paragraph (a) of subsection (1) of this section shall cease to apply.

(3) Every bailee who pays to the Minister the increase in respect of any flour stock may recover the amount of the payment (together with interest as aforesaid) from any person claiming to own such stock, or from the actual bailor of the same, in any Court of competent jurisdiction, and the judgment or order of a Court of summary jurisdiction shall not merge the lien ; and every such person paying to the bailee such amount shall be entitled to recover contribution from any other person having any interest in the ownership of such stock in proportion to such interest.

(4) Every owner within the meaning of this Part shall have, as against all persons other than himself having any interest of ownership therein, a lien thereon as if he were a bailee for such persons.

Returns of flour
stocks, contracts,
etc., to be made.

24. (1) Every miller, every baker, and every flour merchant—

(a) when the Minister by notice published in the *Government Gazette* and in at least two daily newspapers published in Adelaide requires, shall make return in the prescribed form to the Minister—

I. of all flour stocks held by such miller, baker, or flour merchant ; and

II. of all contracts for the sale of flour entered into between such date after the first day of January, nineteen

Wheat Marketing and Transportation Act.—1920.

PART III.

nineteen hundred and twenty, as the Minister requires and the date of the making of the returns (both days inclusive) as the Minister requires, disclosing—

- the date of the contract ;
- the quantity of flour involved ;
- the rate of delivery ; and
- the delivery in fact made to the date of the return :

Provided that all sales by retail (not made to bakers) of flour not being more than one-fifth of a ton in weight by a flour merchant in the ordinary course of his business are exempted from contracts included in subparagraph II. of this paragraph ; and

- (b) shall permit the Minister, by any person authorised by him in writing in that behalf, to inspect the books and stocks of such miller, baker, or flour merchant with the object of vouching the accuracy of such returns, and to take copies of any entries in such books, and for that purpose shall produce to such person all books, accounts, vouchers, and documents in the custody or power of such miller, baker, or flour merchant which relate thereto, or which such person requires to see.

Inspection of
books, &c.

- (2) In this section, unless inconsistent with the context or subject-matter—

Interpretation.

“ Baker ” includes every person converting flour into edible form for sale as human food :

“ Flour merchant ” includes every person who has acquired, or during the operation of this Act acquires, flour for purposes of re-sale.

- (3) This section, and any provision of this Act so far as necessary for carrying this section into effect, shall come into operation immediately on the passing of this Act.

Commencement of
this section.

25. (1) Any amount payable by any person to the Minister under this Part may be recovered by the Minister, or any person authorised by him in writing (either generally or in any particular case) in that behalf in any Court of competent jurisdiction.

Recovery of
amounts due
hereunder.

- (2) In any proceedings under this Part a certificate by any person authorised in that behalf by the Minister certifying that on inquiry deemed adequate by such person any parcel of flour constitutes the whole or any part of a flour stock the ownership of which was on the return day in any person, or the custody of which was on the return day in any bailee, shall be *prima facie* evidence in all Courts of the matters certified by such certificate.

Burden of proof.

Wheat Marketing and Transportation Act.—1920.

PART IV.

Penalties for con-
travention of Act.

26. (1) Every person who does not do anything directed to be done, or does anything forbidden to be done, by or under this Act shall be guilty of an offence against this Act.

(2) Every person guilty of an offence against this Act shall—

- (a) be liable to the penalty expressly provided therefor; and
- (b) (if no other penalty is expressly provided) be liable—

- I. for a first offence, to a penalty of not more than Two Hundred Pounds or to imprisonment for a term of not more than three months;

- II. for a second offence, to a penalty of not less than Ten Pounds or more than Three Hundred and Fifty Pounds or to imprisonment for a term of not more than six months, or to both such penalty and imprisonment; and

- III. for a third or any subsequent offence, to a penalty of not less than Fifty Pounds or more than Five Hundred Pounds and to imprisonment for a term of not more than twelve months—

or in case of a corporation shall be liable for a first offence to a penalty of not less than Twenty-five Pounds or more than One Thousand Pounds, for a second offence to a penalty of not less than Fifty Pounds or more than Two Thousand Pounds, and for a third or any subsequent offence to a penalty of not less than One Hundred Pounds or more than Three Thousand Pounds.

(3) If two or more persons are responsible for the same offence against this Act, each of those persons shall be liable to the penalty or imprisonment or both provided by this Act, and the liability of each of them shall be independent of the liability of the others.

(4) Where a person convicted of any offence under this Act is a corporation, the chairman and every managing director and every officer concerned in the management of the corporation shall be guilty of the like offence, unless he proves that the act which constituted the offence took place without his knowledge or without his consent.

Penalties, how
recoverable.

27. (1) All penalties under this Act may, at the option of the Attorney-General, be recovered in a Court of summary jurisdiction consisting of a Special Magistrate, or by action in the Supreme Court or in any Court of competent jurisdiction.

Procedure on
information for
penalties.

(2) The following provisions shall apply with respect to proceedings in Courts of summary jurisdiction for the enforcement and recovery of penalties under this Act:—

- I. Any information may be laid by any officer employed by the Minister under this Act who is thereto authorised in writing, either generally or specially, by the Minister:

- II. Every

Wheat Marketing and Transportation Act.—1920.

PART IV.

- II. Every information shall be laid within three years after the contravention alleged :
- III. Any number of contraventions of any one provision of this Act may be included in one information, and the defendant may be convicted of any one or more of such contraventions and acquitted of the other or others :
- IV. If a defendant is convicted of more than one contravention of this Act, and whether he is or is not acquitted of any other contravention alleged in the information, the Court may impose a penalty in respect of each contravention of which he is convicted, and may make one order against the defendant for payment of the whole of any pecuniary penalties as one penalty :
- V. If the Court has acquitted the defendant of any contravention in any information in which it has convicted him of any other contravention, it may make such order as to costs in respect of the proceedings in so far as they relate to the contravention in which there has been an acquittal as it deems just :
- VI. Every information shall be sufficient in form which alleges that the defendant committed a contravention of this Act, and which sets out particulars of the contravention or contraventions alleged in sufficient detail to acquaint the defendant with the particular matter or matters he is called upon to answer :
- VII. A defendant in an information may apply to a Special Magistrate, within seven days of the day of service of a summons, for an order directing the informant to file with the clerk of the Court, within seven days of the service of the order, such further and fuller particulars as such Special Magistrate deems proper, and the Special Magistrate may make such order accordingly :
- VIII. There shall be an appeal in respect of proceedings summarily disposed of :
- IX. In the event of any appeal in any such proceedings, a special case may be stated.

(3) All pecuniary penalties recovered under this Act shall be paid to the Minister to be applied towards the expenses of carrying this Act into execution, and all other moneys paid pursuant to this Act to the Minister or to any person on his behalf shall be applied for the purposes of the wheat marketing scheme.

Application of penalties, &c.

28. Any person who, without the authority in writing of the Minister or one of his officers, uses or occupies any shed, store, or building of which the Minister or the South Australian Wheat Harvest Board is the owner, tenant, or occupier, shall be liable to a penalty not exceeding Twenty Pounds.

Unlawful use of wheat sheds, &c.

29. All

PART IV.

Wheat Marketing and Transportation Act.—1920.

Actions may be brought and defended in name of Chairman of the Board

29. All actions, whether of contract or of tort, and if of contract, whether the contract was made or entered into by or in the name of the Minister, or by or in the name of the South Australian Wheat Harvest Board, or by or in the name of the Chairman, manager, or secretary of such Board with respect to wheat already under the operation of the Wheat Harvest Acts, 1915 to 1919, or wheat harvested during the season 1920-1921, surplus wheat, or old wheat, or with respect to flour or other products gristed from any such wheat, or with respect to the doing, suffering or omission of anything for the purposes of this Act or the Wheat Harvest Acts, 1915 to 1919, may be brought and maintained by or against the Chairman of the South Australian Wheat Harvest Board for the time being, under the name of Chairman of the South Australian Wheat Harvest Board.

Accounts of receipts and disbursements to be kept.

30. (1) The Minister shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for or on account of this Act or pursuant thereto, and of the several purposes for which sums of money have been received and paid.

Accounts to be audited by Commissioner of Audit.

(2) The accounts of all moneys received and paid as aforesaid shall be audited by the Commissioner of Audit, who shall have, with respect to such accounts, all the powers conferred on him by the Audit Act, 1882.

No. 241 of 1882.

Accounts to be furnished.

(3) The Minister shall furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of the moneys received by the Minister and of the expenditure thereof.

Statement, &c., to be laid before Parliament.

(4) Copies of such accounts and of such statement shall be laid before both Houses of Parliament if then sitting, or, if not then sitting, at the next ensuing Session thereof.

Balance of moneys required to be subsequently appropriated by Parliament for the purpose.

31. All moneys required for carrying this Act into full execution shall, so far as the same are not provided for under or pursuant to this Act, be defrayed out of moneys to be hereafter appropriated by Parliament for the purpose.

Power to make regulations.

32. The Governor may make regulations for—

(a) the purchase or sale, or arrangements for the purchase or sale, of—

I. surplus wheat ; and

II. wheat harvested during the season 1920-1921 ;

(b) the allocation or distribution of the proceeds of the sale of any such wheat as aforesaid, and the allocation of the expenses of carrying this Act into execution ;

(c) prescribing the duties of agents, officers, servants and other persons appointed or authorised by the Minister pursuant to this Act ;

(d) prescribing

Wheat Marketing and Transportation Act.—1920.

PART IV.

- (d) prescribing forms which may be used under this Act ;
- (e) all matters required or permitted by this Act to be prescribed;
and
- (f) generally, all matters and things necessary or convenient to
be prescribed for carrying out the provisions and the
purposes of this Act.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

W. E. G. A. WEIGALL, Governor.